

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

3
4 SUMMARY ORDER
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6 THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL
7 REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS
8 OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS
9 OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A
10 RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL
11 OR RES JUDICATA.
12

13 At a stated term of the United States Court of Appeals for the Second Circuit, held at the United
14 States Courthouse, Foley Square, in the City of New York, on the 11th day of August , two
15 thousand and six.
16

17 PRESENT:

18 HON. BARRINGTON D. PARKER,
19 HON. RICHARD C. WESLEY,
20 HON. PETER W. HALL,
21 *Circuit Judges.*
22

23
24 William J. Pfuntner,
25 *Plaintiff-Appellant,*
26

SUMMARY ORDER
No. 05-5192-cv

27 v.
28

29
30 The Village of Dansville,
31 *Defendant-Appellee.*
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34 For Plaintiff-Appellant: Maurice J. Verrillo, Law Office of Maurice Verrillo; Rochester,
35 New York.
36

37 For Defendant-Appellee: Audrey A. Seeley; Hurwitz & Fine, P.C.; Buffalo, NY.
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39 ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND
40 DECREED that the judgment of the district court be AFFIRMED.
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1 Plaintiff-Appellant, William J. Pfuntner, appeals from a judgment, entered August 25,
2 2005, in the United States District Court for the Western District of New York (David Larimer,
3 J.), granting Defendant’s summary judgment motion and dismissing Plaintiff’s claims under 42
4 U.S.C. § 1983. Familiarity with the record below and the issues on appeal is presumed.

5 Plaintiff limited this appeal to his § 1983 claims based on Defendant’s ordinances
6 regulating signs.¹ This court reviews the district court’s grant of summary judgment *de novo*. *See*
7 *Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 763 (2d Cir. 2002); *Belfi v. Prendergast*, 191
8 F.3d 129, 135 (2d Cir. 1999). Summary judgment is granted when, after viewing all facts in the
9 record in a light most favorable to the non-moving party, no genuine issue of material fact exists
10 and “the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c); *see also*
11 *Forsyth v. Fed’n. Employment & Guidance Serv.*, 409 F.3d 565, 569 (2d Cir. 2005); *Bryant v.*
12 *Maffucci*, 923 F.2d 979, 982 (2d Cir. 1991).

13 “Article III of the Constitution, which limits our jurisdiction to cases and controversies,
14 precludes resolution in the absence of ‘direct and immediate dilemma.’” *United States v.*
15 *Johnson*, 446 F.3d 272, 278 (2d Cir. 2006) (quoting *Marchi v. Bd. of Coop. Educ. Servs.*, 173
16 F.3d 469, 478 (2d Cir. 1999)). “The mere possibility of future injury, unless it is the cause of
17 some present detriment, does not constitute [the requisite] hardship.” *Simmonds v. INS*, 326 F.3d
18 351, 360 (2d Cir. 2003). Here, Plaintiff has failed to assert anything more than the “mere
19 possibility of future injury.” Because we find that the case is not ripe, we do not have jurisdiction
20 to consider Plaintiff’s claims.

¹ The district court also dismissed additional federal claims and then declined to exercise
pendant jurisdiction over Plaintiff’s state law claims.

1 We have considered Plaintiff's remaining contentions and find them to be without merit.

2 For the foregoing reasons, the judgment of the District Court is hereby AFFIRMED.
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5 FOR THE COURT:

6 Roseann B. MacKechnie, Clerk
7

8 By: _____
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